

**Application No.: 10/772,101**  
**Filing Date: February 4, 2004**

#### **REMARKS**

Claims 111-149 were previously pending. No new claims have been added and no claims have been canceled. Claims 111 and 137 have been amended. Accordingly, Claims 111-149 remain pending for consideration.

#### **Claim Rejections under 35 U.S.C. § 112**

Claim 137 has been amended to address this rejection.

#### **Claim Rejections under 35 U.S.C. § 102**

Claims 111-116, 118-124, 127-131, 133-146, 148 and 149 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Garrison et al. (U.S. Pub. No. 2002/0151970). Although Applicants respectfully disagree with this rejection, Claims 111 and 137 have been amended to further prosecution. Claim 111, as amended, recites in part a valve assembly comprising a cardiac valve and a prosthetic cardiac valve support wherein the cardiac valve assembly has “an axial length that permits the prosthetic cardiac valve assembly to extend from the cardiac annulus and into the ascending aorta.” Similarly, Claim 137, as amended, recites in part a valve assembly comprising a valve support “configured to support a replacement cardiac valve” and having “an axial length that permits the support portion to extend from the cardiac annulus and into the ascending aorta.”

Garrison does not teach a prosthetic cardiac valve assembly having “an axial length that permits the prosthetic cardiac valve assembly to extend from the cardiac annulus and into the ascending aorta.” Instead, Garrison teaches a valve displacer 8B that has an axial length that permits the valve displacer 8B to reside entirely within the cardiac annulus. As illustrated in FIG. 20, reproduced below, Garrison’s valve displacer 8B lacks the axial length to extend from the cardiac annulus and into the ascending aorta.

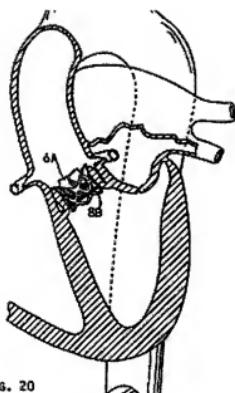


FIG. 20

Note that FIG. 27, reproduced below, also shows the valve displacer 8 residing completely in the cardiac annulus. The structure located in the ascending aorta is the cardiac valve 6c, which is shown separated from the valve displacer 8, which the Examiner has asserted corresponds to a valve support. See Office Action, p. 2. In addition, when the valve 6c is separated from the valve displacer 8, the valve displacer 8 fails to support the valve 6c.

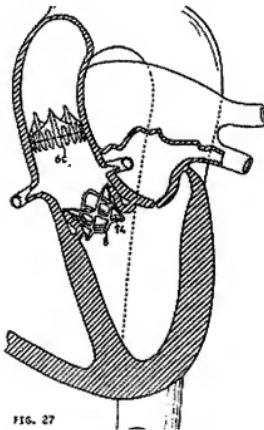


FIG. 27

Claim 114, as amended, recites a valve support that has a portion that is "expandable to contact the ascending aorta when the cardiac valve assembly is properly positioned in-situ." As

illustrated above in FIG. 27, the valve displacer 8 resides in the cardiac annulus, and because the valve displacer 8 lacks the length to extend into the ascending aorta, the valve displacer 8 cannot be expanded “to contact the ascending aorta when the cardiac valve assembly is properly positioned in-situ.” Instead, FIG. 27 shows the cardiac valve 6c contacting the ascending aorta, rather than a valve support. Furthermore, the valve displacer 8 cannot be moved from its location at the cardiac annulus to reside in the ascending aorta because such a placement would render Garrison’s device inoperable since nothing would be displacing the native aortic valve leaflets.

For at least the reasons set forth above, Claims 111, 114 and 137 are patentable over Garrison. According, Applicants respectfully assert that Claims 111, 114 and 137 are in condition for allowance and request that the rejections be withdrawn. Claims 112-116, 118-124, 127-131, 133-136 depend from Claim 111 and Claims 138-146, 148 and 149 depend from Claim 137. Therefore, Claims 112-116, 118-124, 127-131, 133-136 and Claims 138-146, 148 and 149 are patentable for at least the reasons set forth above for Claims 111 and 137. In addition, Claims 112-116, 118-124, 127-131, 133-136 and Claims 138-146, 148 and 149 are patentable for the unique combination of features recited therein. Accordingly, Applicants respectfully assert that Claims 112-116, 118-124, 127-131, 133-136 and Claims 138-146, 148 and 149 are in condition for allowance.

Claim Rejections under 35 U.S.C. § 103

Claims 117, 125, 126, 132 and 147 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Garrison in view of Schwartz et al. (U.S. Pub. No. 2002/0099439), Kocur (U.S. Patent No. 6,350,277) or Shaolian et al. (U.S. Patent No. 6,299,637). Neither Schwartz nor Kocur nor Shaolian, alone or in combination, cures the deficiencies of Garrison. Therefore, Claims 117, 125, 126 and 132, which depend from Claim 111, and Claim 147, which depends from Claim 137, are patentable for at least the reasons set forth above for Claims 111 and 137. According, Applicants respectfully assert that Claims 117, 125, 126, 132 and 147 are in condition for allowance and request that the rejections be withdrawn.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this

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application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

*Co-Pending Applications of Assignee*

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Serial Number	Title	Filed
11/128,826	HEART VALVE PROSTHESIS AND METHODS OF MANUFACTURE AND USE	05/13/05
11/433,296	HEART VALVE PROSTHESIS AND METHODS OF MANUFACTURE AND USE	05/12/06
11/434,506	NON-CYLINDRICAL PROSTHETIC VALVE SYSTEM FOR TRANSLUMINAL DELIVERY	05/15/06
12/029,031	PROSTHETIC VALVE FOR TRANSLUMINAL DELIVERY	02/11/08

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: May 1, 2008

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